

COPY

BEFORE THE CHIROPRACTIC PHYSICIANS'

BOARD OF NEVADA

NEVADA STATE BOARD OF
CHIROPRACTIC EXAMINERS

MAR 11 1999

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RENO, NEVADA 89502

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In the Matter of)

MIKAL BARCHENGER, D.C.)

Respondent.)

**AGREED SETTLEMENT OF
DISCIPLINARY ACTION
AND ORDER**

COMES NOW the Chiropractic Physicians' Board of Nevada (hereinafter referred to as "the Board") by and through counsel, Nancy L. Wenzel, Deputy Attorney General, and Mikal Barchenger, D.C., by and through counsel, Robert E. Dickey, Esq., to enter into this Agreed Settlement providing for the settlement of disciplinary action. The parties hereby stipulate as follows:

BACKGROUND

1. The Board received and fully investigated two complaints against Dr. Barchenger alleging violations of NRS 634 and NAC 634.

2. The alleged conduct at issue, as provided in the complaints and examined in the Board's investigation, was failing to adhere to the statutes and regulations governing referral bureaus, and preparing and submitting a permanent partial disability report to the Division of Industrial Relations on an injured employee whom Dr. Barchenger did not examine.

3. The Board served a Notice of Intended Action to Dr. Barchenger in accordance with NRS 233B.127(3), setting forth the facts and conduct which warranted the Board's intended action.

4. Dr. Barchenger has agreed to enter into this Agreed Settlement as the way to resolve this matter.

5. The Board accepts Dr. Barchenger's acknowledgment and good faith compliance with all terms of this Settlement Agreement as a satisfactory resolution of this disciplinary action.

JURISDICTION

Dr. Barchenger is, and at all times mentioned herein was, a licensed chiropractor (License No. B-284), and he acknowledges that the Board has jurisdiction over him and the conduct addressed in the Notice of Intended Action in this matter.

1 **ACKNOWLEDGMENT AND VOLUNTARY WAIVER OF RIGHTS**

2 1. Dr. Barchenger is aware of, and fully understands, his right to have a hearing on the
3 allegations set forth in the Notice of Intended Action, his rights to reconsideration, appeal, and all
4 other rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada
5 Chiropractic Act and accompanying regulations, and the federal and state constitutions.

6 2. Dr. Barchenger, with full advice of counsel, hereby freely, voluntarily and
7 intelligently waives the rights enumerated above, and instead chooses to enter into this Agreed
8 Settlement with the Board in accordance with NRS 233B.121(5).

9 3. However, Dr. Barchenger and the Board understand that if the Board does not accept
10 this proposed Agreed Settlement as provided herein, the above waiver of rights is void and will have
11 no effect whatsoever.

12 **CONDITIONS OF AGREEMENT**

13 1. The Board will issue a private letter of reprimand to Dr. Barchenger, pursuant to
14 NRS 634.190(2)(b), the contents of which will not be a public record.

15 2. Dr. Barchenger agrees to adhere to the requirements of NAC 634, as amended and
16 effective September 10, 1998, regarding referral bureaus. Dr. Barchenger will have 90 days to
17 bring Advanced Spinal Chiropractic Referral Service into compliance with the new regulations, and
18 thereafter will be subject to periodic review until it is deemed by the Board that such reviews are no
19 longer necessary.

20 **ACCEPTANCE OF AGREEMENT BY BOARD**

21 1. Dr. Barchenger understands this Agreed Settlement shall be presented to the Board
22 with recommendation of approval by Board counsel at a meeting of the Board. It will not be
23 submitted for Board consideration until after it has been agreed to and executed by Dr. Barchenger.

24 2. Dr. Barchenger understands that the Board is free to accept or reject this agreement.
25 It shall not become effective until it has been approved by a majority of the Board and endorsed by a
26 representative member of the Board. If rejected by the Board, this Agreement shall have no effect
27 whatsoever and the Board will proceed as it deems appropriate.

28 ...

1 3. In agreeing to submit this Agreement to the Board, Dr. Barchenger agrees to waive
2 any claim that members of the Board should be disqualified from sitting on a disciplinary hearing
3 panel because of their review and approval or rejection of this Agreed Settlement.

4 4. No inferences against Dr. Barchenger will be made from his willingness to enter into
5 this Agreement at any disciplinary hearing or other lawful resolution of this matter if the Board does
6 not accept this Agreed Settlement.

7 **EFFECT OF COMPLETE AGREEMENT**

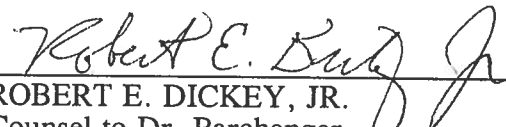
8 1. The Agreed Settlement of Disciplinary Action and Order consists of four pages, and
9 embodies the entire agreement reached between the Board and Dr. Barchenger. It may not be
10 altered, amended or modified without the express consent of the parties.

11 2. The Board shall retain jurisdiction in this case until all conditions have been met to
12 the satisfaction of the Board.

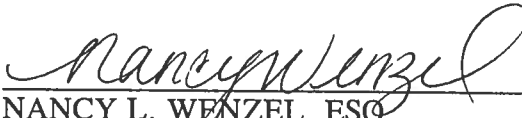
13 DATED this 16th day of February, 1999.

14 
15 _____
16 MIKAL BARCHENGER, D.C.

17 DATED this 16th day of February, 1999.

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19 
20 _____
21 ROBERT E. DICKEY, JR.
22 Counsel to Dr. Barchenger

23 DATED this 19th day of February, 1999.

24 
25 _____
26 NANCY L. WENZEL, ESQ.
27 Counsel to the Chiropractic Physicians Board of Nevada
28

1 **ORDER**

2 By a majority vote on 2/28, 1999, Chiropractic Physicians' Board of Nevada
3 approved and adopted the terms and conditions set forth in the attached Agreed Settlement of
4 Disciplinary Action with Mikal Barchenger, D.C.

5 IT IS SO ORDERED.

6 Dated this 28th day of FEBRUARY, 1999.

8 CHIROPRACTIC PHYSICIANS' BOARD
9 OF NEVADA

10
11 By: J. L. Andrews DC
12 President